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Third Committee

Summary record of the 60th meeting
Held at Headquarters, New York, on Monday, 25 November 2002, at 3.30 p.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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The meeting was called to order at 4.30 p.m.

Agenda item 107: Elimination of racism and racial discrimination (*continued*)

(b) Comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action (*continued*) (A/C.3/57/L.34/Rev.1 and A/57/443)

Draft resolution A/C.3/57/L.34/Rev.1: Fight against racism, racial discrimination, xenophobia and related intolerance and comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action

1. **The Chairman** stated that document A/C.3/57/L.34/Rev.1 was not yet ready.

The meeting was suspended at 4.35 p.m.

The meeting resumed at 5.45 p.m.

2. **Mr. de Barros** (Secretary of the Committee), pursuant to rule 153 of the General Assembly rules of procedures, read out the following statement:

"(a) In operative subparagraph 19(a) of draft resolution A/C.3/57/L.34, the Assembly recommends that the Intergovernmental Working Group established pursuant to paragraph 7 of Commission on Human Rights resolution 2002/68, adopted on 25 April 2002, convene its inaugural session before the fifty-ninth session of the Commission and should, thereafter, convene annual intersessional meetings aimed at the accomplishment of its mandate;

(b) The Commission on Human Rights was informed of the programme budget implications of the establishment of an Intergovernmental Working Group and the convening of its inaugural session before the fifty-ninth session of the Commission. The text of the oral statement made to the Commission appears in document E/2002/L.24, which was also communicated to the Economic and Social Council at its substantive session of July 2002. That document notes that (a) the necessary conference servicing requirements could be absorbed if the Intergovernmental Working Group could meet from 2 to 13 December 2002; (b) the Office of the High Commissioner had verified that the Working Group would meet on those dates; and (c) no additional resources would be required if the inaugural session of the Intergovernmental Working Group were held from 2 to 13 December 2002;

(c) The recommendation relating to annual intersessional meetings is something new. Upon further review of the calendar of conferences and meetings for the biennium 2002-2003, it has been determined that conference servicing requirements could be absorbed if the Intergovernmental Working Group could meet from 18 to 29 August 2003. The Office of the High Commissioner has verified that it had been decided that the intersessional meeting of the Intergovernmental Working Group would be held on those dates. Under those conditions, no additional resources would be required for the meeting in question."

3. **The Chairman** announced that A/C.3/57/L.34/Rev.1, which had just been distributed to the delegations, would be published in the other official languages after its adoption.

4. **Ms. Kislinger** (Venezuela), speaking on behalf of the Group of 77 and China, said that the definite article "the" should be added before the words "fight" and "comprehensive" in the English title of the draft resolution, which should thus be "The fight against racism, racial discrimination, xenophobia and related intolerance and the comprehensive implementation of and follow-up to the Durban Declaration and Programme of Action." She thanked the delegations that had participated in the negotiations leading up to the formulation of the final version of the draft resolution, emphasizing in particular the efforts by the States Members of the European Union to arrive at a draft text that would be acceptable to all delegations. The Group of 77 and China were pleased with the outcome, and hoped that future draft resolutions on racism would be developed in the same spirit of cooperation and that the text in question would be adopted by consensus.

5. **The Chairman** said that a recorded vote on the draft resolution, as revised, had been requested.

6. **Mr. Jacob** (Israel) said that his delegation fully supported action by the international community aimed at eliminating racism, racial discrimination and related intolerance. Israel would continue to strive to that end, regardless of the decision taken on the draft resolution before the Committee. It was precisely because of his delegation's opposition to racism that it could not support the outcome of the Durban Conference, which had trampled underfoot the very values that it should

have been defending and the very objectives that it had been convened to pursue. His delegation was thus unable to join the consensus and would vote against the draft resolution.

7. Similarly, if a vote had been taken paragraph by paragraph, his delegation would not have joined the consensus on any paragraph aimed at basing the international community's action against racism on the outcome of a conference that had constituted a step backward. The Durban Conference had been an affront, not only to Israel and to the Jewish people, but to anyone who cherished the true aims of international efforts to eliminate racism. Some delegations and non-governmental organizations had diverted the Durban Conference from its true objective in order to isolate and attack the State of Israel, and consequently the delegations of Israel and the United States of America had been compelled to withdraw.

8. It was regrettable that some delegations had attempted, right up to the last minute, to eliminate any reference to anti-Semitism from the final version of the draft resolution, in view of the fact that attacks against Jews and Jewish institutions were on the rise throughout the world. It was also deplorable that in the course of the negotiations leading up to the formulation of the revised version of the draft resolution, some delegations had used the inclusion of a reference to anti-Semitism as a bargaining chip.

9. **Ms. Ndhlovu** (South Africa) said that the Durban Declaration and Programme of Action were of the utmost importance, and States should commit to implementing the principles set forth therein at the national level, in cooperation with non-governmental agencies. Thanks were due to the Group of 77 and China for leading the negotiations on such a difficult draft text. It was unfortunate that some delegations were using some minor incidents that had occurred offstage at the NGO Forum to discredit the Conference as a whole, even though the Forum's outcome document had been rejected by the Commission on Human Rights and had never been published as an official United Nations document.

10. **Mr. Fox** (United States of America), speaking in explanation of vote before the voting, reaffirmed his Government's determination to combat racism, racial discrimination, xenophobia and related intolerance, including anti-semitism. A civilized society had to defend itself against that phenomenon and against any ideology aimed at denigrating a particular group and leading to hatred, exclusion and violence. His delegation was pleased that the draft resolution included a reference to anti-Semitism, but disappointed that it did not specifically mention anti-Semitism as a contemporary form of racism and, as such, within the mandate of the Special Rapporteur on that issue, who should concern himself with acts of anti-Semitism in carrying out his mandate.

11. The United States had withdrawn from the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban, and consequently had not endorsed the adoption of the Durban Declaration and Programme of Action. The original objective of the Conference had been cast aside: the participants had focused, inappropriately and unacceptably, on one specific national situation. Furthermore, the Conference had been held against a background of demonstrations of hatred and intolerance in the streets of Durban, the worst that the world had seen in decades.

12. In addition, in some paragraphs of the draft resolution, the General Assembly would be endorsing, reaffirming or commending mechanisms and mandates to which his delegation had expressed objections at the time of the adoption of General Assembly resolution 56/266 and Commission on Human Rights resolution 2001/5. His delegation maintained its objections to the adoption of those mechanisms by the Third Committee.

13. The decision to take three resolutions that had been adopted in 2001, two of them by consensus, and merge them into a single resolution was regrettable. His delegation's views had not been taken into consideration, and consequently it would vote against adoption of the draft resolution.

14. Once again, his delegation was firmly committed to the original objectives of the Conference, namely the elimination of racism, racial discrimination, xenophobia and related intolerance. But its position was clear: the international community's efforts must never again deviate to the smallest degree from its original goals and objectives.

15. **Ms. Eskjær** (Denmark), speaking on behalf of the European Union, said that the States Members of the Union were determined to implement the Durban Declaration and Programme of Action and had already taken measures to that end at the international and regional levels. The programme aimed at combating

discrimination which had been put together in Durban, thanks to tireless efforts by all parties, should now be implemented in the same spirit of consensus that had been maintained by the European Union throughout the difficult process that had resulted in the revised draft resolution. It was unfortunate that the text, which represented the most broadly based consensus that the world's States had been able to achieve, could not be adopted by consensus. It was greatly to be hoped that matters would be different in the future. The States Members of the European Union would vote in favour of the draft resolution, as revised.

16. **Mr. Laurin** (Canada) recalled that his delegation had totally dissociated itself from any direct or indirect reference to the Middle East in the Durban Declaration and Programme of Action. Similarly, it dissociated itself from any wording that might be interpreted as confirmation of the implementation of the conclusions of the Durban Conference. It was, however, quite prepared to implement the various promising measures outlined in those documents (recognition of the unique situation of aboriginal groups, strong interest in the concept of multiple discrimination, the role of education, young people, the media, the Internet and globalization).

17. The mandate of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance ought to have been mentioned in operative paragraph 50 of the revised draft resolution. In particular, the text should have stated explicitly that the Special Rapporteur's duties included looking into incidents that constituted contemporary forms of racism, racial discrimination, all types of discrimination directed against Blacks, Arabs and Muslims, xenophobia, anti-Black feeling, anti-Semitism and related intolerance. Despite his delegation's unbroken, long-standing commitment to the effort to eliminate racism, it would therefore abstain when the draft resolution was put to the vote.

18. **Mr. Choy** (Australia) said that it was unfortunate that the efforts of all concerned to reach practical, constructive conclusions following the Durban Conference should have been thwarted by an adversarial political debate. His delegation had expressed serious reservations about those conclusions at the time, and could not support a draft resolution that accepted the outcomes of the Durham Conference without reservation and called for their comprehensive implementation. There were also grounds for concern about the manoeuvring room that would be available to prospective mechanisms established to follow up the implementation of the outcomes of the Durban Conference. His delegation was well aware of the importance of a number of the conclusions and recommendations contained in the Durban Declaration and Programme of Actio:, but firmly maintained its position that any prospective follow-up mechanism should comply strictly with the consensual aspects that had been agreed at the Conference, without overstepping that framework. It would therefore abstain from voting.

19. *A recorded vote was taken.*

In favour:

Afghanistan, Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Cap Verde, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Dominican Republic, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Estonia, Ethiopia, Finland, France, Gambia, Georgia, Ghana, Germany, Greece, Guatemala, Guyana, Haiti, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Iceland, Italy, Jamaica, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Malawi, Maldives, Mali, Malta, Mauritius, Mauritania, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Samoa, San Marino, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sri Lanka, Sweden, Switzerland, Suriname, Swaziland, Syrian Arab Republic, Thailand, The former Yugoslav Republic of Macedonia, Togo,

Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, Venezuela, Viet Nam, Yemen, Yugoslavia, Zambia, Zimbabwe.

Against:

Israel, United States of America.

Abstaining:

Australia, Canada, Marshall Islands.

20. *Draft resolution A/C.3/57/L.34/Rev.1 was adopted by 153 votes to 2, with 3 abstentions.*

21. **Mr. Ndiaye** (Senegal), speaking in explanation of vote, said that it was regrettable that a resolution against racism should have had to be the subject of a vote by the community of nations. His delegation had striven from the outset to ensure that the draft resolution would mobilize a broad consensus including, in particular, the European Union, which had endorsed the Durban Declaration and Programme of Action. That consensus should be preserved, and consequently it was important not to establish controversial implementation and follow-up machinery, as in that case, if resolutions on follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance were put to the vote, dissenting countries would not implement them. The question of racism could not be viewed exclusively in terms of North versus South or Black versus White divisions. Policies of exclusion and the phenomena of intolerance or segregation based on skin colour, country of origin, ethnicity or religious conviction should be condemned and combated with equal vigour everywhere and under all circumstances. The effort was of critical importance at a time when armed conflicts, unleashed or sustained by ethnic or religious intolerance, were breaking out in some regions of the world.

22. His delegation, as a member of the Group of 77, had voted in favour of the draft resolution in the hope that compromises would be sought and found so that a consensus would emerge at the coming session of the Commission on Human Rights, and also at the fifty-eighth session of the General Assembly.

23. **The Chairman** suggested that the Committee should take note of the document entitled "Comprehensive implementation of and follow-up to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance" (A/57/443).

24. *It was so decided.*

25. **The Chairman** announced that the Committee had concluded its consideration of agenda item 107.

Agenda item 12: Report of the Economic and Social Council (A/C.3/57/L.75)

26. **Mr. de Barros** (Secretary of the Committee) introduced draft resolution A/C.3/57/L.75, briefly reviewed its contents, and informed the Committee that there were a number of corrections that should be made to the text, having regard to the Committee's work. On page 5, after "International Year of Volunteers (2005)" the symbol A/57/L.8 should be added; on page 10, the words "Award of human rights prizes" should be followed by (2007) instead of (2003); on page 14, under item 9, the following documents should be added: "Report of the High Commissioner for Refugees (General Assembly resolution 52/104 and A/C.3/57/L.79, para. 13)", "Report of the Secretary-General on assistance to refugees, returnees and displaced persons in Africa (A/C.3/57/L.73, para. 35)" and "Note by the Secretary-General transmitting the report of the High Commissioner for Refugees regarding the strengthening of the capacity of the Office of the High Commissioner to carry out its mandate (A/C.3/57/L.78, para. 3)"; on page 15, the documentation should be amended in the light of the revised version of document A/C.3/57/L.34, the text of which had just been adopted; on page 17, under item 14(b), "Note by the Secretary-General transmitting the full report of the Ad Hoc Committee on a Comprehensive and Integral International Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities (A/C.3/357, p. 6, para. 15)" should be added; under item 14(c), after the second report, "Report updates by the Special Rapporteur on the situation of human rights in Afghanistan (A/C.3/57/L.71, para. 25)" should be added; also under item 14(c), on page 18, under the heading *Questions for consideration for which no advance documentation has been requested*, the symbol of the document relating to the situation of human rights in the Sudan should read "A/C.3/57/L.43/Rev.1, para. 7"; lastly, on page 19, under item 9, "Report on the progress made concerning the promotion of a new international humanitarian order (A/C.3/57/L.74, para. 8)" should be added.

27. **The Chairman** said that he would take it that the Committee wished to adopt the draft biennial programme of work for 2003-2004 contained in document A/C.3/57/L.75, as orally revised.

28. *It was so decided.*

29. *Document A/C.3/57/L.75, as orally amended was adopted without a vote.*

30. **The Chairman** suggested that the Committee should adopt a draft decision taking note of the report of the Economic and Social Council contained in document A/57/3, in particular chapters I, III, IV, V, VII, sections A, B, C and I, and chapter IX thereof.

31. *The draft decision was adopted.*

32. **The Chairman** announced that the Committee had concluded its consideration of agenda item 12.

Conclusion of the work of the Third Committee

33. **The Chairman** thanked the delegations for their cooperation and expressed his gratitude to the members of the Bureau and the staff of the Secretariat. The efforts of all concerned to promote dialogue and transparency were gratifying. Granted that it was frequently difficult to reach a consensus, it was none the less important to be more careful about keeping to time limits; the Committee could not spend several hours considering a single draft resolution. The cost of a meeting was approximately 23,440 dollars.

34. **Ms. Elisha** (Benin) said that her delegation found it regrettable that, once again, it had been necessary to vote on some resolutions, including in particular the resolutions on globalization, the right to development and the right to food. Globalization had both positive and negative impacts, and it was for the community of developing countries to take up the challenge and persuade their development partners that poverty was not something inevitable, but a structural phenomenon related to the economic conditions that characterized the contemporary world. It was to be hoped that they would soon succeed in that endeavour.

35. After an exchange of courtesies, in which **Ms. G. Mariam** (Ethiopia), speaking on behalf of the Third Committee's African Group of Experts, **Mr. Hahn** (Denmark), speaking on behalf of the European Union, **Mr. Zeidan** (Lebanon), speaking on behalf of the Group of Arab States, **Ms. Molaroni** (San Marino), speaking on behalf of the Group of Western European and other States, **Mr. Laurin** (Canada), speaking on behalf of the JUSCANZ (Japan, United States of America, Canada and New Zealand) Group, **Mr. Aguzzi-Durán** (Venezuela), speaking on behalf of the Group of 77, **Ms. Ayuso** (Argentina), speaking on behalf of the Latin American delegations, **Mr. Sinaga** (Indonesia), speaking on behalf of the Group of Asian States, **Mr. Francis** (Jamaica), speaking on behalf of the Caribbean Community (CARICOM), **Ms. Loemban Tobing-Klein** (Suriname) and **Ms. Kadare** (Albania), speaking on behalf of the Group of Eastern European States, took part, **the Chairman** declared that the Third Committee had completed its work for the fifty-seventh session.

The meeting rose at 6.55 p.m.

United Nations A/C.3/57/SR.61

General Assembly
Fifty-seventh session

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Third Committee

Summary record of the 61st meeting
Held at Headquarters, New York, on Thursday, 1 May 2003, at 10 a.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

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03-34330 (E) 101203 101203

The meeting was called to order at 10.30 a.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/769, A/C.3/57/L.90, A/C.3/57/L.91)

1. **Mr. Corell** (Under-Secretary-General for Legal Affairs and Legal Counsel) introduced the Report of the Secretary-General on Khmer Rouge trials (A/57/769), submitted pursuant to General Assembly resolution 57/228. After a brief background survey, the report gave a detailed account of the resumed negotiations. In view of the mandate given to him by the General Assembly, the Secretary-General considered that the resumed negotiations should take as their point of departure the draft agreement which had been under discussion during the previous negotiations between the United Nations and the Government of Cambodia, but was in need of adjustments designed to ensure that the structure and organization of the prospective Extraordinary Chambers would be simplified in the interests of greater credibility, earlier establishment, and expeditious and efficient operation. The Secretary-General's efforts in that connection had not been uniformly successful: the Government of Cambodia, supported by some Member States, had refused to consider his proposals, which would have required it to make changes to its Law of 10 August 2001 on the structure and organization of the Extraordinary Chambers, with the exception of a proposal that the number of instances therein should be reduced from three to two. Aware as he had been that the Government of Cambodia was not prepared to yield in the matter, the Secretary-General had had to negotiate a draft agreement that did not provide for any change to the structure and organization of the Extraordinary Chambers, but none the less did contain a number of positive elements. In the first place, the proposed text, if adopted, would constitute a legally binding international agreement between the United Nations and Cambodia, and as such would apply as law within Cambodia. In the second place, the number of instances would be two instead of three. In the third place, some of the provisions of the draft agreement would go much further toward ensuring international standards of justice, fairness and due process of law than the provisions of the agreement that had been under discussion during the earlier negotiations. However, some concerns remained. The Secretary-General's Special Representative for human rights in Cambodia had consistently found there to be little respect on the part of Cambodian courts for the most elementary features of the right to a fair trial, and consequently it was to be feared that some of the provisions of the draft agreement might not be fully respected by the Extraordinary Chambers. Furthermore, in Cambodia the executive routinely interfered with the independence of the judiciary, as had been noted by the General Assembly in its resolution 57/225, the Commission on Human Rights in its resolution 2003/79 and the Committee against Torture. Consequently, the Secretary-General would have preferred the appointment of international judges, who would have been less likely to be influenced by, or yield to, pressure from that quarter. In addition, it would then not have been necessary to apply the problematic "supermajority" formula. The Under-Secretary-General recalled the sad case of Mr. Justice Sok Setha Mony, who had recently been murdered after having sentenced a former senior Khmer Rouge official to life imprisonment, and noted that if an agreement were reached, any deviation by the Government from its obligations could lead to the United Nations withdrawing its cooperation and assistance. Referring to the draft resolution currently under consideration, he said that the sponsors had not sought to meet with him and the Controller, despite the fact that the Secretary-General had asked them to do so. In the event the draft resolution should be adopted, the international judges, the international co-prosecutor and the international co-investigating judge would be deemed to be officials of the United Nations, which would be responsible for their salaries and emoluments, in accordance with the recommendation made by the Secretary-General in paragraph 59 of his report. Once the draft resolution had been adopted, the Secretary-General would proceed to sign the draft agreement on behalf of the United Nations, and it would enter into force as soon as notification of the necessary legal arrangements had been given in writing. If, for example, the General Assembly were to decide that assistance activities should be financed from voluntary contributions, as contemplated in the draft resolution, the Secretary-General would send the required notification when sufficient contributions

were in place to fund those activities for a sustained period of time, as stated in document A/C.3/57/L.91. If the draft resolution before the Third Committee should be adopted, the Secretary-General would ask all States whether they intended to make contributions in the form of funds, personnel or services, and what the scale of those contributions would be. This would enable him to determine whether it would be feasible to establish the Extraordinary Chambers, or whether the question should be sent back to the General Assembly for consideration of other methods of financing.

Draft resolution A/C.3/57/L.90: Khmer Rouge trials

2. **Mr. Haraguchi** introduced the draft resolution on behalf of the sponsors, which had been joined by the Lao People's Democratic Republic. He urged all Member States to make contributions so that the Extraordinary Chambers could be established quickly and function effectively. His delegation hoped that the draft resolution would be adopted without a vote.

3. **The Chairman** directed the representatives' attention to document A/C.3/57/L.91, which contained the statement submitted by the Secretary-General in accordance with rule 153 of the rules of procedure of the General Assembly. He then announced that Cambodia, Indonesia, Malaysia, Portugal and Senegal had joined the sponsors of the draft resolution.

4. **Mr. Ouch Borith** (Cambodia) said that the genocide and crimes against humanity perpetrated by the bloody Khmer Rouge regime, the exactions of which had caused the deaths of more than two million people, must not go unpunished. The Government of Cambodia had established a national tribunal to try those who had committed those crimes shortly after the country's liberation in 1979, and, at its request, the United Nations had subsequently conducted a feasibility study in 1998. The weakness of Cambodia's judiciary and legal system was a direct consequence of the damage inflicted by the Khmer Rouge upon the country's cultural, political, economic and social structure. Cambodia had therefore turned to the United Nations for assistance and had asked it to participate in the Khmer Rouge trials, which were to take place in accordance with the relevant law enacted by the Government following intensive negotiations with the United Nations. The draft resolution currently before the Committee would approve the resulting draft agreement, which would become part of Cambodia's domestic law once it had been ratified by the National Assembly. If it entered into force, that agreement would have the binding force of an international treaty and would have to be performed by both parties, in accordance with the 1969 Vienna Convention on the Law of Treaties. There could be no doubt about the credibility of the future Extraordinary Chambers, the establishment of which would represent an historic turning-point in the field of international humanitarian law, fostering understanding of the importance of internationally accepted standards and encouraging the administration of justice on behalf of the victims, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide. It was to be hoped that the draft resolution would be adopted by consensus.

5. **Mr. Haraguchi** (Japan) said that he saw no need for document A/C.3/57/L.91 on the programme budget implications of draft resolution A/C.3/57/L.90, since the Extraordinary Chambers were to be financed from voluntary contributions. In paragraph 2 of that document, moreover, the Secretary-General drew the Committee's attention to section VI of General Assembly resolution 45/248 B, in which the Assembly expressed concern at the tendency of its substantive Committees and other intergovernmental bodies to involve themselves in administrative and budgetary matters, whereas paragraph 3 of the draft resolution, which was directly based on General Assembly resolution 57/228, stated expressly that the expenses of the Extraordinary Chambers to be defrayed by the United Nations were to be borne by voluntary contributions from the international community, and not by the assessed contributions of the Member States. It would be of interest to know how the Secretariat had arrived at the figure of over $19 million as the estimated cost of establishing and operating the Extraordinary Chambers. Lastly, document A/C.3/57/L.91 had been prepared taking into account the recommendation made by the Secretary-General in his report to the effect that the international judges, the international co-prosecutor and the international co-investigating judge should be deemed officials of the United Nations, but it would be premature to take a decision of that kind in the absence of fuller details. The proposed draft text should therefore be adopted, on the understanding that the General Assembly had not yet taken a decision on the status of personnel.

6. **Mr. Florent** (France) said that his delegation wished to align itself with the position of the delegation of Japan, and that the title of document A/C.3/57/L.91 was questionable.

7. **Mr. Rostow** (United States of America) said that his delegation wished to align itself fully with the statements made by the representatives of Japan and France.

8. **Mr. Correl** (Under-Secretary-General for Legal Affairs and Legal Counsel) said that he would immediately inform the Controller of the remarks made by the representatives of Japan, France and the United States of America. However, personnel recruited by the Secretary-General would necessarily be United Nations officials, the available resources would be managed in accordance with United Nations rules and regulations, regardless of whether the resources in question were voluntary contributions or not, and the Deputy Director of the Office of Administration would, of course, report to the Secretary-General. The draft resolution currently before the Committee was concerned, not with an independent legal entity, but a United Nations operation aimed at assisting the Government of Cambodia.

The meeting rose at 11.15 a.m.

United Nations A/C.3/57/SR.62

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Fifty-seventh session

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Third Committee

Summary record of the 62nd meeting
Held at Headquarters, New York, on Friday, 2 May 2003, at 3 p.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*)

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03-34445 (E)

The meeting was called to order at 3.20 p.m.

Agenda item 109: Human rights questions (*continued*)

(b) Human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms (*continued*) (A/57/769; A/C.3/57/L.70, L.90 and L.91)

Draft resolution A/C.3/57/L.90: Khmer Rouge trials

1. **The Chairman** announced that Brunei Darussalam, El Salvador, Greece and Timor-Leste had joined the sponsors of draft resolution A/C.3/57/L.90. A statement on its programme budget implications was contained in document A/C.3/57/L.91.

2. **Mr. Rostow** (United States of America) said that his delegation, although committed to the establishment of a credible tribunal, would have preferred to delay consideration of the draft resolution until after the Cambodian National Assembly elections in July 2003 and therefore dissociated itself therefrom. It acknowledged the efforts of the Secretary-General and the Government of Cambodia to reach agreement on the establishment of an extraordinary chamber that would bring to justice senior leaders of the Khmer Rouge and others who bore the greatest responsibility for the atrocities committed. Lastly, he noted the commitment displayed by the sponsors of General Assembly resolution 57/228, including Japan, France and Australia.

3. **Ms. Burnett** (United Kingdom) said that her Government had long been committed to the establishment of a Khmer Rouge tribunal under United Nations sponsorship. It welcomed the negotiations leading to the initialling of the draft agreement between the United Nations and the Government of Cambodia and the Government's decision to sponsor the draft resolution as an indication of its commitment to the success of the Extraordinary Chambers.

4. She noted the Secretary-General's concerns regarding the implementation of the draft agreement, including the tribunal's financing mechanism, the applicable financial and staff rules and regulations and the status of the internationally appointed judges and prosecutor; however, her delegation believed that those issues could be resolved with the good will of all concerned parties. She stressed the need for the Chambers to respect international standards of justice, fairness and due process and for the international community to pledge sufficient financial support for the full anticipated duration of the Chambers' existence prior to their establishment. If successful, the Chambers would represent an important step in promoting the rule of law and ending the climate of impunity in Cambodia.

5. Her delegation had therefore concluded that the draft agreement represented the best opportunity for the Cambodian people to move towards reconciliation and to bring to account those most responsible for the atrocities committed under the Khmer Rouge regime.

6. *Draft resolution A/C.3/57/L.90 was adopted.*

7. **Mr. Davidse** (Netherlands) said that he welcomed the balanced report of the Secretary-General (A/57/769) and the efforts of the United Nations negotiating team, which had done its best under the difficult mandate established in General Assembly resolution 57/228. However, his delegation would have preferred further negotiations between the United Nations and the Cambodian Government in order to ensure that international standards of justice were upheld.

8. While the current text of the draft agreement was an improvement over previous versions, he endorsed the Secretary-General's comments regarding the issues of judicial and prosecutorial independence, applicable law, decision-making processes and witness protection and noted the Legal Counsel's concern at the fact that the Chambers' international judges would constitute a minority and at the lack of clarity regarding the United Nations status of the tribunal's officials. It was unfortunate that the Secretary-General's proposals regarding the structure, organization and composition of the Chambers and those designed to strengthen the role of the international element at the stages of investigation and prosecution (paras. 16 and 22 of the report) had been rejected.

9. General Assembly resolution 57/228, adopted on 18 December 2002, had set a bad precedent by failing to fully guarantee that international standards of justice, fairness and due process would be met. His delegation continued to have serious concerns regarding the path that would be followed in the future and stressed that the Chambers' functioning would need to be closely monitored by the international

community; in that regard, he drew attention to paragraph 51 of the report, which stated that if the Government were later to change the structure and organization of the Extraordinary Chambers so that they failed to conform to the Agreement, then the obligation of the United Nations to provide assistance under the draft agreement would cease to apply.

10. **Ms. Stanley** (Ireland) said that while her delegation appreciated the efforts of all parties to the negotiations, it shared the concerns expressed in the report of the Secretary-General; strict adherence to international standards of justice would be vital to the success of the Extraordinary Chambers.

11. **Mr. Barriga** (Liechtenstein) said that his Government was a strong advocate of international cooperation in combating impunity, as shown by its support for the establishment of the International Criminal Court and the Special Court for Sierra Leone, and it hoped that the draft agreement would promote international justice and foster peace and reconciliation in Cambodia. However, he regretted that the Extraordinary Chambers would not be composed of a majority of international judges and that it did not contain more references to relevant international standards or clearer provisions for the protection of witnesses. He respected the Cambodian Government's wish to engage in an exercise of national reconciliation; however, the credibility of the United Nations was also at stake. In the interests of international justice and, first and foremost, of the people of Cambodia, he therefore welcomed the future involvement of the General Assembly through the reports of the Secretary-General and hoped that the Khmer Rouge trials would meet the minimum international standards for such an endeavour.

12. **Ms. Eueström** (Sweden), speaking on behalf of the Nordic countries, said that she welcomed the draft agreement between the United Nations and the Cambodian Government. However, the Nordic countries remained convinced that financing through assessed contributions would have facilitated prompt implementation of the draft agreement; in that regard, the Secretary-General had referred to the lessons learned from the Special Court for Sierra Leone in paragraph 76 of his report. She called on Member States to make voluntary contributions without delay so that the Extraordinary Chambers could become operational as soon as possible.

13. Although the Chambers would be a national court, trials must be conducted in an impartial, efficient and independent manner in accordance with international standards of justice, fairness and due process; United Nations assistance would be withdrawn unless the draft agreement was implemented in full. Lastly, she stressed the importance of the Secretary-General's reports to the General Assembly pursuant to paragraph 4 of the draft resolution. Those reports should be ongoing and should focus not only on implementation, but also on any problems that could lead to the withdrawal of United Nations cooperation under article 28 of the draft agreement.

14. **Ms. Groux** (Switzerland) expressed her delegation's appreciation to the Secretary-General and the parties to the draft resolution, particularly Japan, France and Cambodia. Lasting peace could not be achieved without assuming responsibility for the past; the draft agreement should help strengthen the rule of law and combat impunity in Cambodia. However, it was important to clarify the statement in article 28 that the United Nations reserved the right to cease to provide assistance should the Government cause the Extraordinary Chambers to function in a manner that did not conform with the terms of the draft agreement; specific criteria should be established as guidelines for predictable, transparent relations between the parties concerned. She noted that the General Assembly remained seized of the matter and looked forward to the Secretary-General's reports on implementation of the draft resolution.

15. **Mr. Much** (Germany) said that he was sensitive to the horror of the atrocities committed by the Khmer Rouge. It was time for the international community to act if it wished to seize the opportunity to ensure that at least some of those responsible were brought to justice. His delegation had therefore joined the consensus on the draft resolution, despite persistent doubts regarding the guarantees of comprehensive judicial standards and the overly complicated procedures set forth in articles 4 and 7 of the draft agreement. Whether justice was done in a credible manner would depend on the political will of the parties; he trusted that the Government of Cambodia would follow the example of the Government of Sierra Leone in that regard. In the light of article 28 of the draft agreement, on withdrawal of cooperation, he requested that the report of the Secretary-General, called for in paragraph 4 of the draft resolution, should include an assessment of the

political environment within which the Extraordinary Chambers would be established.

16. **Mr. Simancas** (Mexico) said that his delegation had joined the consensus in the belief that the draft resolution was the outcome of efforts to strengthen justice, combat impunity and promote reconciliation in Cambodia and to bring to justice the persons presumed responsible for the crimes committed during the period of Democratic Kampuchea. He was confident that the political will and cooperation of the Government of Cambodia and the involvement of the United Nations would overcome the limitations inherent in the draft agreement and ensure its full implementation, and he welcomed the ongoing monitoring of that process under paragraph 4 of the draft resolution.

17. **Mr. Ouch** (Cambodia) thanked the Committee for its adoption of the draft resolution, which marked a historic moment and a step towards justice for the people of Cambodia.

18. **Mr. Haraguchi** (Japan) said that the international community had a great stake in ensuring the success of the Extraordinary Chambers. As a sponsor of the draft resolution, his delegation hoped that Member States — including those which, despite their reservations, had not opposed its adoption by consensus — would provide financial and other support for implementation of the draft agreement.

19. **Mr. Florent** (France) said that the draft resolution addressed many of the concerns expressed regarding the parties' political will to implement the draft agreement in good faith and the guarantees contained therein. He requested that the draft agreement, annexed to the draft resolution in the English version, should be added in the French version as well, particularly as a French translation already existed and was annexed to the French version of the report of the Secretary-General (A/57/769).

The meeting rose at 3.50 p.m.

A/C.3/57/SR.63

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United Nations A/C.3/57/SR.63

General Assembly
Fifty-seventh session

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Third Committee

Summary record of the 63rd meeting
Held at Headquarters, New York, on Friday, 6 June 2003, at 11.20 a.m.

Chairman: Mr. Wenaweser ..... (Liechtenstein)

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03-38729 (E)

The meeting was called to order at 11.20 a.m.

Election of the Chairman for the fifty-eighth session of the General Assembly

1. **The Chairman** recalled that, pursuant to General Assembly resolution 56/509 of 8 July 2002, a number of changes had been made to the rules of procedure of the General Assembly and that rule 99 now called for all the Main Committees to elect a Chairman at least three months before the opening of the session.

2. **Mr. Belinga-Eboutou** (Cameroon) had been nominated for election to the office of Chairman for the fifty-eighth session. In the absence of further nominations and in accordance with rule 103 of the rules of procedure, he would take it that the Committee wished to elect Mr. Belinga-Eboutou (Cameroon) Chairman.

3. *Mr. Belinga-Eboutou (Cameroon) was elected Chairman by acclamation.*

Completion of the Committee's work

4. **The Chairman** declared that the Committee had completed its work for the fifty-seventh session.

The meeting rose at 11.25 a.m.